

# Kirklees Council

## Highways Guidance Note – Highways Technical Approval March 2019 (version 1)

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### This guidance note

#### Introduction

**1** This guidance note aims to give a simple introduction to 'highways technical approval' and the matters that Kirklees Council's highway engineers consider when deciding whether to approve proposals for new roads and paths, works to existing highways, or developments that might affect existing or proposed highways.

**2** This guidance note has been written mainly to help developers, but it will also be used by highways teams within Kirklees Council.

#### Technical requirements

**3** This guidance note does not set out any technical requirements for new roads or paths.

#### Implementation

**4** This guidance note applies to all applications for technical review submitted on or after 1 April 2019.

### Highways technical approval

#### Background

**5** Kirklees Council, as the local highway authority, has liability for the safe operation and ongoing maintenance of publicly maintainable highways within Kirklees. This is a very onerous responsibility. Accordingly, it needs to be very careful about agreeing to developers' proposals for new roads and paths, works to existing highways, or developments that might affect existing or proposed highways.

**6** To make sure that new roads and paths in developments and related works to existing

highways would be acceptable, Kirklees Council requires them to have 'highways technical approval'.

#### Good design

**7** Kirklees Council would only give highways technical approval to proposals that have been well-designed, meet the council's published requirements, and comply with current best practice.

## Kirklees Council's objectives

**8** In addition to the above, proposals should satisfy Kirklees Council's objectives for new roads or paths and improved highways. These are that they would:

- be safe, secure, and convenient for all members of the public

- be safe, convenient, and not disproportionately expensive to maintain
- support the development of thriving, liveable neighbourhoods

## Grounds for making decisions

### Introduction

**9** When deciding whether new roads or paths or works to existing ones would be acceptable, Kirklees Council has to comply with good administrative practice and certain specific legal requirements. These are to give confidence that the decisions would be consistent, made on relevant grounds, and in the best interests of the public. The main ones are discussed below.

### Good administrative practice

**10** As a local authority, Kirklees Council tries to follow guidance issued by the Commission for Local Administration in England (better known as the Local Government and Social Care Ombudsman). In its publication *Principles of Good Administrative Practice*, the Ombudsman describes various principles that the council should apply and how to apply them. Of particular relevance when making decisions about highways technical approval, the Ombudsman recommends that the council should:

- Take proper account of established good practice
- Inform service users what they can expect and what the organisation expects of them
- Deal with people helpfully, promptly, and sensitively, taking account of their individual circumstances
- Be open and clear about policies and procedures and ensure information, and any advice provided, is clear, accurate and complete
- State the criteria for decision making and give reasons for decisions
- Keep proper and appropriate records
- Take responsibility for actions

- Deal with people and issues objectively and consistently
- Ensure decisions and actions are proportionate, appropriate, and fair

**11** This guidance note sets out how Kirklees Council tries to meet these recommendations when making decisions about proposals for new roads or paths and improved highways developments, including those that do not comply with the council's usual requirements.

### 'Best value'

**12** Kirklees Council is designated by the [Local Government Act 1999](#) as a 'best value' authority. This means that the law has placed certain restrictions on how the council may use its powers. In particular, the council must have regard to statutory guidance issued by the government. This is contained in the Department for Communities and Local Government publication *Revised Best Value Statutory Guidance*.

**13** The statutory guidance says that, when making decisions about how to use its powers as a highway authority, Kirklees Council is not allowed to just consider what would be in the financial interest of the council or what would be best for highway users. Instead, it has to consider what would give 'best value' to the public as a whole, where 'value' includes economic, environmental, and social value.

### Equality

**14** Kirklees Council has to comply with the [Equality Act 2010](#). This act makes it unlawful for the council to discriminate against anyone on the grounds of various 'protected characteristics'. These include age, disability, and gender.

## Public sector equality duty

**15** As a public body, Kirklees Council has a specific obligation to have ‘due regard to the need to advance equality of opportunity’ between people with protected characteristics and those without.

## Disability and reduced mobility

**16** The Equality Act pays particular attention to the rights of people with disabilities and requires ‘service providers’ – including Kirklees Council – to make ‘reasonable adjustments’ to remove barriers to them.

**17** Therefore, when deciding how to use its powers as a highway authority, Kirklees Council has to pay careful attention to the needs of people with disabilities and to others with reduced mobility because of, for example, age.

## Safety and health

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### General duty of care

**18** Kirklees Council has a legal duty to take care to avoid causing accidents. This includes taking care when deciding whether to adopt roads or paths or to allow works to existing highways.

### Construction safety

**19** The council has specific duties for construction safety under the [Construction \(Design and Management\) Regulations 2015](#). Under these regulations, Kirklees Council counts as a ‘designer’ when it influences the design of any proposed works, for example by saying what it would or would not approve. When behaving as a ‘designer’, the council has specific legal obligations to eliminate, ‘so far as is reasonably practicable’, foreseeable risks to safety or health.

**20** The council has prepared a highways guidance note [Highway Adoptions and the CDM Regulations](#), which gives more information on how the regulations affect highway adoptions in Kirklees.

### Occupational safety and health

**21** Kirklees Council also has specific duties under the [Health and Safety at Work etc Act 1974](#). This act requires employers to conduct their business in a way that ensures, ‘so far as is reasonably practicable’, that they do not expose employees or ‘persons not in their employment’ to risks to their health or safety.

**22** When Kirklees Council adopts roads or paths as publicly maintainable highways, it takes on the responsibility for their ongoing maintenance and management. Accordingly, it takes on a legal duty to make sure that its maintenance workers can work in a way that is as safe as reasonably practicable. This means that, when considering proposals for new or improved highways, the council must refuse any that could not be maintained safely.

### Road user safety

**23** Under [section 39](#) of the [Road Traffic Act 1988](#), Kirklees Council must, when constructing new roads, ‘take such measures as appear to the authority to be appropriate to reduce the possibilities of accidents arising out of the use of vehicles when the roads come into use’. This means that, when the council designs new roads, it must take care to reduce the likelihood of accidents.

**24** Kirklees Council does this by applying good practice to its designs and by ensuring that the way new roads might affect the safety of users is thoroughly assessed using ‘road safety audits’ (RSAs). In RSAs, the road safety implications are formally assessed or ‘audited’ by qualified and experienced experts who are not involved with the design and are independent of the designers.

**25** Kirklees Council’s requirements for RSAs are based upon those of Highways England, which are given in the [Design Manual for Roads and Bridges](#) document [GG 119 – Road Safety Audit](#).

**26** The section 39 obligation applies to all new roads constructed by Kirklees Council whether they are for the council as highway authority or for developers. Kirklees Council applies the same principles when assessing roads designed or constructed by developers.

## Crime and disorder

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**27** When making decisions about how to use its powers as a highway authority, Kirklees Council has to comply with [section 17](#) of the [Crime and Disorder Act 1998](#). This section requires the council to consider the likely effects of its decisions on crime and disorder. This includes the likely effects on anti-social and other behaviour adversely affecting the local environment and the misuse of drugs, alcohol, and other substances.

## Road network management

**28** As the local highway authority, Kirklees Council has legal obligations under [section 16](#) of the [Traffic Management Act 2004](#). This section requires the council to manage the road network in Kirklees with

a view to securing the ‘expeditious movement of traffic’. Accordingly, when assessing proposals for new or improved highways, the council must consider how they might affect traffic flows on nearby roads or elsewhere in Kirklees.

## Departures from standard

### Non-compliant proposals, innovative designs, and contentious RSA findings

#### Non-compliant proposals

**29** There will be occasions when it would not be practicable for a proposed development to comply with all the requirements given above. Kirklees Council will seriously consider such proposals. However, to allow them to be assessed in a thorough, consistent way, the council will treat them as ‘departures from standard’.

#### Innovative designs

**30** Kirklees Council wishes to encourage creative, innovative designs that are appropriate for the context, character, and location of the development and that can be used safely and conveniently by residents, visitors, workers, and the public at large. Accordingly, the council will consider proposals for design features that are not covered by its highway standards. However, to allow them to be assessed in a thorough, consistent way, the council will treat them as departures from standard.

#### Contentious RSA findings

**31** As part of the RSA process, the auditors give their findings in an ‘audit report’. The designers then review the audit report and write a formal audit ‘response report’ covering any problems and recommendations raised. Ideally, the designers would accept the findings and change the design of the proposals accordingly. However, where the designers and auditors disagree about the findings, the designer has to write an audit ‘exception report’ covering the contentious items. These items have to be considered by the council. To allow them to be assessed in a thorough, consistent way, the council will treat them as departures from standard.

### Departures from standard

#### Definition

**32** Having regard to the above, Kirklees Council defines the following as ‘departures from standard’:

- Any feature of a proposed design that does not comply with a requirement of Kirklees Council’s highway standards
- Any feature of a proposed design that is not covered by Kirklees Council’s highway standards
- Any feature of a proposed design that is the subject of an unresolved disagreement between its designer and a road safety auditor.

#### Assessment and approval of departures from standard

**33** Roads and paths that contain features that were departures from standard would only be given highways technical approval if the departures had been separately approved by Kirklees Council.

**34** When deciding whether to allow a proposed departure from standard, Kirklees Council would have to consider whether it would be justified. To do this, the council would have to review whether the benefits of allowing the departure would outweigh the adverse effects. As discussed previously, when doing this, Kirklees Council would have to pay particular attention to ‘best value’, equality, safety and health, crime and disorder, and road network management issues.

**35** Developers considering proposals that include potential departures from standard should discuss them with the highway adoptions team as soon as they can to agree the general approach and design parameters. If these were not agreed, then it might prevent the adoption of the roads or paths concerned.

## Planning permission and highways technical approval

### General

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**36** As it would take on such an onerous responsibility, Kirklees Council has to thoroughly assess all proposals for new publicly maintainable highways. This assessment would be in much greater detail than when reviewing an application for planning permission.

**37** This means that getting planning permission for a proposed road or path does not mean that it would

be automatically suitable for adoption. Therefore, when designing new highways, developers should bear in mind that they need to get both planning permission and highways technical approval.

**38** If developers follow the advice given by Kirklees Council's highway engineers, then getting highways technical approval should follow on smoothly from getting planning permission.

## Section 38 agreements and highway adoptions criteria

### Section 38 agreements

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**39** Kirklees Council has prepared a highways guidance note [Section 38 Agreements for Highway Adoptions](#), which explains how to get new roads and paths adopted by Kirklees Council using a section 38 highway adoption agreement.

### Highway adoptions criteria

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**40** Kirklees Council's highways guidance note [Highway Adoptions Criteria](#) outlines what would or would not be adopted.

## Further information, comments, and queries

### Kirklees Council highways standards and guidance

#### Highways guidance notes

- Existing Roads and Paths Affected by New Developments
- Gradients
- Highway Adoption Drawings
- Highway Adoptions and the CDM Regulations
- Highway Adoptions Criteria
- Highways Technical Approval
- Highways, SuDS, and Private Drainage
- Introduction to Highways and Adoptions
- Operation and Maintenance Manuals for Adopted Highways
- Requirements of New and Improved Roads and Paths
- Requirements of Submitted Documents
- Section 38 Agreements for Highway Adoptions
- Soakaways
- Technical Approval of Surface Water Flow Attenuation Tanks and Pipes

#### Other highways documents

- Kirklees Highways Standard Details

### Comments and queries

#### Kirklees Council welcomes comments and queries about this guidance note

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| <ul style="list-style-type: none"> <li>■ Huddersfield (01484) 22 1000 – ask for ‘Highway Adoptions’</li> <li>■ <a href="mailto:Highways.Section38@kirklees.gov.uk">Highways.Section38@kirklees.gov.uk</a></li> <li>■ <a href="http://www.kirklees.gov.uk/highwayadoptions">www.kirklees.gov.uk/highwayadoptions</a></li> </ul> | <ul style="list-style-type: none"> <li>■ Kirklees Council<br/>Highway Adoptions<br/>Flint Street Depot<br/>Flint Street<br/>Fartown<br/>Huddersfield<br/>HD1 6LG</li> </ul> |
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